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September 19, 2023

VIA Email to akest@fkblaw.com

Asher Kest, Esq.

For Defendants Smith, Carroad, Levy, Wan & Parikh, P.C. and Pragna Parikh

Furman Kornfeld & Brennan LLP

61 Broadway, 26th Floor

New York, NY 10006

Re: Notice of Deficiencies in September 19 Document Production.

Ramirez v. Smith, Carroad, Levy, Wan & Parikh, P.C. et al., 1:23-cv-4355 -AT

Dear counsel,

The undersigned represents Plaintiff Deborah Ramirez. This letter responds to the document responses produced by your office on September 19, 2023. For ease of reference, Plaintiff has bates stamped the production. Please be prepared to confer on these items at 4:30 PM today.

1. The following responsive documents have not been produced:
 - a. the “Call Screen” generated with the command “Ctrl+F12” in Smith’s collection software;
 - b. the emails referenced throughout the screenshots of the collection software. Emails should be produced in native format – summary of email text in the account notes is not sufficient, as demonstrated by, for example, the email referenced on DEFENDANTS 47 allegedly sent to Ms. Ramirez on January 5 by Tom Bennett, seemingly attaching documents that have not yet been produced but would be available if the email was produced in native format;
 - c. The “POST OFFICE BOX LETTER” referenced on DEFENDANTS 28, dated June 5, 2022
 - d. The “Demand letter-pp” referenced on DEFENDANTS 29, dated June 5, 2022;
 - e. The “school file spreadsheet” referenced on DEFENDANTS 41, entry dated December 14, 2022;
 - f. The “Add’l Notes” tab visible on DEFENDANTS 28-65.
 - g. The “vMedia” tab visible on DEFENDANTS 28-65.
 - h. The “Priority” tab visible on DEFENDANTS 28-65.
 - i. The “Calls” tab visible on DEFENDANTS 28-65.
 - j. The “Tags” tab visible on DEFENDANTS 28-65.
 - k. The “Docs” tab visible on DEFENDANTS 28-65.

1. Smith's retainer or other agreement with Mildred Elley governing collection of the putative debt of Deborah Ramirez;
- m. Your insurance policies and declaration sheets;
- n. No documents have been produced that are responsive to RFP # 12. The objection on the basis of burden is vague and ambiguous. Plaintiff's allegations refer specifically to misrepresentations made to her, and generally unfair treatment, during phone calls with a Smith Carroad employee, Tom Bennett. Documents related to Mr. Bennett's hiring, training and supervision are directly relevant to the claims in this case.
- o. No documents have produced that are responsive to RFP #14. The objection on the basis of quotations is unavailing – each of the quoted terms (1) comes from the collection lawsuit filed by Smith Carroad, and (2) has a plain English meaning that Defendants could have used if there was any doubt about their meaning. However, if Defendants contend that there are no responsive documents that provide a basis for any fees being incurred, then Plaintiff will accept an amended response stating that there are no responsive documents.
2. The redactions on DEFENDANTS 30-32, 34-42, 44-52, and 54-55 are improper. On their face, they are too pervasive to be limited to attorney-client privilege and attorney workproduct. Not all communications by attorneys, nor work of attorneys, is privileged, and courts have repeatedly found that a law firm acting as a debt collector rather than legal counsel cannot shield information with claims of privilege. See *Hallmark v. Cohen & Slamowitz*, 300 F.R.D. 110, 112 (W.D.N.Y. 2014) (compiling cases) citing *Avoletta v. Danforth*, No. 3:11CV1126 WWE, 2012 WL 3113151, at *1 (D. Conn. July 31, 2012); *Torres v. Toback, Bernstein & Reiss LLP*, 278 F.R.D. 321, 323 (E.D.N.Y.2012) (in camera review of documents from holder of debt showed no purpose to obtain legal advice but instead demonstrated disputed communications with defendant's attorney were related to defendant's "debt collection business" and, as such, were not privileged and subject to production); and *FTC v. Lundgren*, 1997 U.S. Dist. LEXIS 9557, *7 (E.D.Cal. Apr. 29, 1997). "[Attorney-client] privilege does not protect incidental legal advice given during the course of correspondence pertaining to business and not made in response to a request made primarily for the purpose of securing legal advice." *Avoletta* at *2 quoting *Lundgren* at *7-8. Notably a large amount of the redactions are of entries that appear to be made by Defendant Pragna Parikh.
3. Please see attached **Exhibit A** for abbreviations and codes to be defined. While a party can object to an interrogatory as oppressive if a prior deposition has answered it, there is no such dynamic for a perspective deposition. To the contrary, courts in this Circuit have found that interrogatories may help avoid unnecessary depositions, highlight important conversations, communications, and documents, avoid delay, and narrow issues for trial. *Compagnie Francaise d'Assurance Pour le Com. Exterieur v. Phillips Petroleum Co.*, 105 F.R.D. 16, 43 (S.D.N.Y. 1984) citing *In re Shopping Carts Antitrust Litigation*, 95 F.R.D. 299, 1982-1 Trade Cas. ¶ 64,561, at 73,074 (S.D.N.Y.1982). The court raised this point specifically in response to objections "on the ground that they purportedly ask for evidentiary detail more appropriately elicited at depositions." *Compagnie*, 105 F.R.D. at 43. It is nonsensical to have a corporate representative for Smith memorize every

abbreviation and code featured in their Internal Record of Claims when Smith could simply provide them in written form.

Respectfully,

/s/

Emma Caterine, Esq.

EXHIBIT A

Please provide definitions to the following codes and abbreviations:

1. DEFENDANTS 28:

- a. BH:
- b. *Add-16:
- c. *Add-783:
- d. *Add-782:
- e. *Add-785:
- f. *Extra:
- g. 91:
- h. *Screen7:
- i. C1A:
- j. DPO:

2. DEFENDANTS 29:

- a. Demand Letter-pp:
- b. TW:
- c. ACCURINT D1:
- d. PP:
- e. xPpa:
- f. AP:

3. DEFENDANTS 30:

- a. Zortman message:
- b. *Add-776:
- c. JAN:
- d. Comp Report:
- e. [any redacted codes]

4. DEFENDANTS 31:

- a. [any redacted codes]

5. DEFENDANTS 32:

- a. [any redacted codes]
- b. JOC:
- c. *Add-787:

6. DEFENDANTS 34:

- a. *Venue1
- b. 2 to 87:
- c. C3G:
- d. [any redacted codes]

7. DEFENDANTS 35:

- a. [any redacted codes]

8. DEFENDANTS 36:

- a. sw fmale:
- b. mach:
- c. Ds&cc:

- d. xVerc:
 - e. Scan: 4:
 - f. SKG:
 - g. [any redacted codes]
9. DEFENDANTS 37:
- a. [any redacted codes]
10. DEFENDANTS 38:
- a. [any redacted codes]
11. DEFENDANTS 39:
- a. [any redacted codes]
12. DEFENDANTS 40:
- a. xScdup:
 - b. *Add-776:
 - c. Scan: 1:
 - d. xVersign:
 - e. xScsign:
 - f. J-S:
 - g. xScindex:
 - h. 77:
 - i. Scan: 2:
 - j. [any redacted codes]
13. DEFENDANTS 41:
- a. [any redacted codes]
 - b. XSC:
 - c. xFsc:
 - d. Dnyscef:
 - e. *Add-777:
 - f. *Screen7:
 - g. Scan: 3:
 - h. CAF:
 - i. CAM:
 - j. AOF:
 - k. XCM:
 - l. CM:
14. DEFENDANTS 42:
- a. *Dbt001:
 - b. [any redacted codes]
15. DEFENDANTS 43:
- a. DA3:
 - b. TDI:
 - c. TD:
 - d. *D1_Dob:
 - e. CID:
16. DEFENDANTS 44:
- a. 73:
 - b. [any redacted codes]

17. DEFENDANTS 45:

- a. [any redacted codes]

18. DEFENDANTS 46:

- a. [any redacted codes]

19. DEFENDANTS 47:

- a. *D1_Ssn:
- b. [any redacted codes]

20. DEFENDANTS 48:

- a. [any redacted codes]

21. DEFENDANTS 49:

- a. MP:
- b. Mporter:
- c. KIS:
- d. xMade:
- e. Ediscov:
- f. *Add-131:
- g. [any redacted codes]

22. DEFENDANTS 50:

- a. [any redacted codes]
- b. PE
- c. Ctcap:
- d. PEisele

23. DEFENDANTS 51:

- a. [any redacted codes]

24. DEFENDANTS 52:

- a. [any redacted codes]
- b. Legalnm:
- c. Motionsn:
- d. *Add-410:
- e. *Add-48:

25. DEFENDANTS 53:

- a. *Adva:
- b. 10700 to 0:

26. DEFENDANTS 54:

- a. PD6:
- b. [any redacted codes]

27. DEFENDANTS 55:

- a. [any redacted codes]

28. DEFENDANTS 57:

- a. *Add-410:
- b. *Add-48:

29. DEFENDANTS 63:

- a. xAtty: